

Ex Parte via Electronic Filing

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Consumer Information and Disclosure, CG Docket No. 09-158; Truth-in-Billing and Billing Format, CC Docket No. 98-170; IP-enabled Services, WC Docket No. 04-36, Broadband Industry Practices, WC Docket No. 07-52.

Dear Ms. Dortch:

On May 16, 2012, ISPs and other organizations and companies met with members of the Commission to discuss issues associated with the Commission's 2012 broadband measurement and performance program. The attendees list is included below.

Discussions focused on the collected data, and the means by which to release the March data in a manner that clearly documented any limitations, due to issues on the M-Lab platform or other problems.

Disclaimer text was circulated by Mr. Johnston, drafted by representatives from the ISPs and intended to ensure that the data were labeled as “unreliable” or “flawed.” Ms. Whittaker and Mr. Gideon made clear that they were in favor of accurate labeling and openness. However, Ms. Whittaker cautioned against posting any claims not accompanied by the data and analytic techniques on which they are based. As M-Lab is still working with The Commission and SamKnows to access the impacted data for the purposes of analysis pursuant of a published incident report, clear conclusions on the exact nature of the problems, their technical scope and impact, aren’t yet available. To ensure scientific credibility and accuracy, any claims should be based on this or other open analysis -- open analysis in which the data, the methodologies employed in analysis, and the conclusions themselves are all made publicly available, following standard scientific protocol.

M-Lab stands by the position that, as all data collected as a part for the broadband measurement and performance program are being made available in their raw form, per the FCC’s openness policies and M-Lab’s data-release requirements, to an audience that necessarily possesses the technical depth to analyze them, that the terms should be precise. Terms like “unreliable” and “flawed” -- current placeholders used in the drafted language -- should be avoided, in favor of more helpful descriptions that precisely and technically describe any specific issues. This will ensure that anyone accessing the data clearly understands its limitations, and can make informed, technically astute conclusions based on precise information. Identifying these precise terms will be contingent on the findings of the completed incident report.

As emphasized by Ms. Whittaker during the meeting, any claim regarding the data must necessarily be made when all of the data are available. As with any responsible scientific conclusion, this ensures credibility and allows researchers to fully understand the nature of a given dataset.

Please contact the undersigned if there are any questions about this filing.

Respectfully submitted,

/s/ Meredith Whittaker
Meredith Whittaker
Program Manager
Google Research
Google, NYC

Thomas Gideon
Senior Staff Technologist
Open Technology Institute
New America Foundation

cc: Walter Johnston

Attendees list:

Jim Smith, ATT; Mike Pfau, ATT; Tom Anschutz, ATT; Ken Koh, Adtran; Paul Jamieson, Cablevision; Jeb Benedict, Centurylink; Mary Retka, Centurylink; Michael Bugenhagen, Centurylink; Paul Diamond, Centurylink; Crystal Tully, Charter; Dave Rodrian, Charter; Jeanne Cooper, Charter; Russ Gyurek, Cisco; Chae Chung, Comcast; David Don, Comcast; Mary McManus, Comcast; John Jay, Corning; Anita Dear, Cox; Paul Cain, Cox; James Miller, FCC; Walter Johnston, FCC; Mike Saperstein, Frontier; Meredith Whittaker, Google/M-Lab; David Horne, Intel; Dave Rerko, JDSU; Thomas Cohen, Kelley Drye & Warren; Steve Bauer, MIT; Powell M. Bedgood, Mediacom; Jim Partridge, NCTA; Steve Morris, NCTA; Thomas Gideon, New America Foundation's Open Technology Institute/M-Lab; Ariela Fish, SamKnows; Neil Campell, SamKnows; Sam Crawford, SamKnows; Jason Weil, TimeWarner Cable; Terri Natoli, TimeWarner Cable; Chris Stengrim, TimeWarner Cable; Chris Martin, Verizon; David Young, Verizon; Donna Epps, Verizon; Kitty O'Hara, Verizon; Mark Montano, Verizon; Jennie Chandra, Windstream